

Rule 662, Earliest Time for Files Reinstatement Petition; Petition to Shorten Time, of the Rules of Procedure of the State Bar of California.

- The proposed amendment to rule 662 would specifically prohibit a former member who has been disbarred or resigned from the practice of law with disciplinary charges pending against him or her from **filing** a petition for reinstatement in the State Bar Court unless the former member has provided satisfactory proof of his or her payment of all discipline costs and Client Security Fund payments and assessments.
- Business and Professions Code sections 6140.7 and 6140.5 currently prohibit a former member from being reinstated to active membership unless he or she has paid all applicable disciplinary costs and CSF payments and assessments. In *In the Matter of Jarequi* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56, 59-60, the State Bar Court Review Department held that Business and Professions Code section 6140.5 prohibits a former member from being actually reinstated to practice until he or she had paid all CSF payments and assessments but does not preclude the former member from filing a petition for reinstatement without proof of such payment. Referring to section 6140.5, the Review Department stated as follows:
 - “There is no language in that section [6140.5] that precludes, or purports to preclude the filing of a petition for reinstatement without including a showing of repayment to the client security fund. And we are unaware of any law, rule of court, or rule of procedure that requires an affirmative showing that reimbursement has been made to CSF before or at the time of filing a petition for reinstatement.” (*In the Matter of Jaurequi, supra*, 4 Cal. State Bar Ct. Rptr. at p. 59.)
- The proposed amendment to rule 662 would require the payment of these amounts prior to the filing of the petition for reinstatement. Under the current version of rule 662, reinstatement petitioners sometimes approach the time of trial continuing to owe substantial, if not huge, sums in assessed disciplinary costs and CSF payments and assessments with no financial ability to make those payments. Under these circumstances, State Bar Court hearing judges have sometimes dismissed the reinstatement proceeding rather than to undertake a lengthy trial and prepare a written decision in the matter when the reinstatement petitioner will not be eligible to return to active membership status and has no prospects for payment of the disciplinary costs or CSF payments and assessments.

Proposed Amendments to
Rule 662, Rules of Procedure of the
State Bar of California

(Deletions are indicated by ~~Strikeout~~. Additions are indicated by ***Bold, Underline, Italics***)

RULE 662. Earliest Time for Filing Reinstatement Petition; Petition to Shorten Time.
[Remains in effect until further Supreme Court Order]

(a) After resignation without charges pending, a first or subsequent petition for reinstatement may be filed at any time.

(b) Except as provided in the order of disbarment, no petition for reinstatement shall be filed within five (5) years after the effective date of the petitioner's disbarment or interim suspension following criminal conviction, or the filing date of the petitioner's resignation with charges pending, whichever occurred earliest.

(c) ***No petition for reinstatement shall be filed unless and until the petitioner has provided satisfactory proof to the State Bar Court that he or she has paid all discipline costs imposed pursuant to Business and Professions Code section 6086.10(a) and all reimbursement for payments made by the Client Security Fund as a result of the petitioner's conduct, plus applicable interest and costs, pursuant to Business and Professions Code section 6140.5(c).***

(~~e~~***d***) A subsequent petition for reinstatement following disbarment or resignation with charges pending shall not be filed earlier than two years after the effective date of an adverse decision upon a prior petition, unless a shorter period is ordered by the Court for good cause.

Eff. January 1, 1995

Source: TRP 662 (Substantially revised).